

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KIRK AND AMY HENRY,

Plaintiffs,

vs.

FREDRICK RIZZOLO, aka
 RICK RIZZOLO, *et al.*,

Defendants.

Case No. 2:08-cv-00635-PMP-GWF

ORDER

Motion for Reconsideration
 (#359)

This matter is before the Court on Defendant Fredrick Rizzolo's Motion to Reconsider Order (#352) Denying Defendant's Motion (#334) for Stay on Enforcement and Execution Pending Appeal from Judgment (#286, #287) re: Posting of Bond Pending Appeal (Dkt. #359), filed April 15, 2010; Plaintiffs' Opposition to Defendant Rick Rizzolo's Motion to Reconsider Order (#352) Denying Motion to Stay Payment of Fees and Costs Awarded under FRCP 37(a) Pending Appeal (Dkt. #360), filed April 15, 2010; and Defendant Rick Rizzolo's Reply to Plaintiffs' Opposition (#360) to Defendant's Request (#359) to Reconsider Order (#352) Denying Defendant's Motion (#334) for Stay of Enforcement and Execution Pending Appeal from Judgment (#286, 287) re: Posting of Bond Pending Appeal (Dkt. #364), filed April 26, 2010.

Defendant Fredrick Rizzolo requests that this Court reconsider its April 12, 2010 order denying Defendant's motion for stay of payment of attorney's fees pending appeal (Dkt. #352), and moves for this Court to grant a stay pending appeal upon Mr. Rizzolo's posting of a bond. (Dkt. #359). Under Fed.R.Civ.P. 62(c), an appellant "may obtain a stay by supersedeas bond . . . after the filing of the notice of appeal." The stay "takes effect when the court approves the bond". *Id.* Based on Defendant Rizzolo's request that the Court permit the posting of a supersedeas bond, the

1 Court will reconsider it's prior order and grant a stay upon Defendant's posting of a supersedeas
2 bond in the amount of \$5,000.00 with the Court. Accordingly,

3 **IT IS HEREBY ORDERED** that Defendant Fredrick Rizzolo's Motion to Reconsider
4 Order (#352) Denying Defendant's Motion (#334) for Stay on Enforcement and Execution Pending
5 Appeal from Judgment (#286, #287) re: Posting of Bond Pending Appeal (Dkt. #359) is **granted** as
6 follows:

- 7 1. The enforcement of the Court's order awarding attorney's fees to Plaintiffs in the
8 amount of \$5,000.00 (Dkt. #s 286, 287) shall be stayed pending appeal upon
9 Defendant Fredrick Rizzolo's posting of a supersedeas bond in the **amount of**
10 **\$5,000.00** with the Court;
- 11 2. Defendant Fredrick Rizzolo will post the supersedeas bond on or before **May 26,**
12 **2010** and file proof of the posting with the Court;
- 13 3. The stay pending appeal shall dissolve upon Defendant Fredrick Rizzolo's appeal
14 being dismissed or denied or upon the Court's order awarding sanctions being
15 overruled.

16 **IT IS FURTHER ORDERED** that the Court's April 12, 2010 order (Dkt. #352) is
17 **vacated.**

18 DATED this 12th day of May, 2010.

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21 GEORGE FOLEY, JR.
22 United States Magistrate Judge
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